

Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

SHAHZAD SHAHNAWAZ, an individual;
OVE LUNDBERG, an individual;
CERTIFICATION TRENDZ, LTD., a
foreign corporation; and JOHN DOES 4-20,
d/b/a "Testking",

Defendants.

No. 2:06-cv-01116-JLR

MOTION FOR ORDER TO SHOW
CAUSE WHY ORDER OF CIVIL
CONTEMPT SHOULD NOT BE
ENTERED AGAINST DEFENDANTS

NOTE ON MOTION CALENDAR:
November 19, 2010

I. INTRODUCTION

Plaintiff Microsoft Corporation ("Microsoft") respectfully moves for an order requiring defendants Shahzad Shahnawaz ("Shahnawaz") and Certification Trendz, Ltd. d/b/a "Testking" (Shahnawaz and Certification Trendz collectively, the "Testking Defendants") to appear and show cause why they should not be held in contempt for violating this Court's prior order permanently enjoining them from, *inter alia*, infringing or assisting others in infringing Microsoft's copyrights.¹ See Order Granting Permanent

¹ Microsoft does not move for an order to show cause against defendant Ove Lundberg.



1 Injunction against Defendants (“Permanent Injunction”). For the Court’s convenience, a
 2 true copy of the Permanent Injunction (Dkt. #42) is attached hereto as Exhibit A.

3 Microsoft seeks this relief on the grounds that the Testking Defendants continue to
 4 engage in the unauthorized copying and distribution of Microsoft’s secure, copyrighted
 5 Certification Exam questions and answers, which allows test-takers to cheat on their exams
 6 by “studying” the actual exam questions and answers before taking their exams at secure,
 7 authorized testing centers. The Testking Defendants have engaged in this conduct in willful
 8 and deliberate violation of the Permanent Injunction entered by this Court on April 5, 2007.
 9 That order unambiguously enjoins the Testking Defendants from using actual Microsoft
 10 Certification Exam questions and answers in any of the defendants’ “test preparation
 11 materials” and from infringing Microsoft’s copyrights and trademarks, or aiding or abetting
 12 any other persons in these acts. *See* Ex. A, Permanent Injunction at ¶¶ 1(a)-(d).

13 Microsoft has assembled clear and convincing evidence of the Testking Defendants’
 14 violations. That evidence includes multiple “practice exams” offered for sale on the
 15 Testking Defendants’ websites. These “practice exams” were obtained and analyzed by
 16 Microsoft, and determined to be infringing. *See generally* Declaration of Mariona Thoma
 17 in Support of Microsoft’s Motion to Show Cause (“Thoma Decl.”) and Sandi Resnick in
 18 Support of Microsoft’s Motion to Show Cause (“Resnick Decl.”). In each of the practice
 19 exams analyzed by Microsoft, the Testking Defendants’ questions and answers consisted of
 20 predominantly either (1) exact copies of the corresponding copyrighted Microsoft
 21 Certification Exam questions and answers, or (2) substantially similar versions of those
 22 questions and answers with only minor, non-material changes. Notably, this is the very
 23 same conduct that the Testking Defendants were engaged in, which required Microsoft to
 24 file the original Complaint, and ultimately led the Court to issue the Permanent Injunction
 25 in the first instance.
 26



II. STATEMENT OF FACTS

Microsoft is the creator, developer, author, and sole owner of numerous copyrighted materials used to certify the competency of individuals engaged in various fields of the Information Technology (“IT”) industry (hereinafter, the “Certification Programs”). Thoma Decl. ¶ 5. The purpose of Microsoft’s Certification Programs are: (1) to set an industry-wide, worldwide recognized standard for basic competency levels in various fields of the IT industry; (2) to maximize efficiency in recruiting, hiring, training, and promoting employees; (3) to help fill the needs of today’s IT workforce by providing individuals with skills in demand; and (4) to provide industry educators with the standards necessary to prepare individuals to meet the job skills of today. *Id.*

To become certified under any of Microsoft’s various Certification Programs, a candidate must pass the required Certification Exam(s). *Id.* ¶ 6. Microsoft publishes Certification Exams with respect to the following Certification Programs: (1) Microsoft Certified Technology Associate (MTA); (2) Microsoft Certified Technical Specialist (MCTS); (3) Microsoft Certified IT Professional (MCITP); (4) Microsoft Certified Professional Developer (MCPD); (5) Microsoft Certified Master (MCM); (6) Microsoft Certified Architect (MCA); (7) Microsoft Certified Desktop Support Technician (MCDST); (8) Microsoft Certified Systems Administrator (MCSA); (9) Microsoft Certified Systems Engineer (MCSE); (10) Microsoft Certified Application Developer (MCAD); (11) Microsoft Certified Solution Developer (MCSD); (12) Microsoft Certified Database Administrator (MCDBA); (13) Microsoft Office Specialist (MOS); (14) Microsoft Certified Trainer (MCT); (15) Microsoft Certified Professional (MCP); and (16) Microsoft Certified Learning Consultant (MCLC). *Id.* All of the exams relating to these Certification Programs are protected under United States copyright law. *Id.* ¶ 20.

Shahnawaz is a resident of Pakistan, and is the owner and operator of the Internet domain name <testking.com> and currently owns or effectively controls numerous



1 additional related domain names, including many of those identified in Appendix A to the
2 original Complaint (Dkt. # 1). At those domains, the Testking Defendants operate websites
3 that are directly involved in the unlawful copying and distribution of Microsoft's
4 copyrighted works.

5 Certification Trendz is a United Kingdom company. Microsoft is informed and
6 believes that Certification Trendz is wholly owned and operated by Shahnawaz, and is
7 simply a shell corporation through which Shahnawaz processes payments for his illegal
8 products and transfers funds to Pakistan. Certification Trendz purports to be the owner of
9 some of the domain names identified in Appendix A to the original Complaint, and purports
10 to be the operator of the websites associated with those domain names.

11 The Testking Defendants own, operate, manage, and/or control many of the Internet
12 domain names identified in Appendix A to the original Complaint (collectively, the
13 "Testking Domains"). Through the Testking Domains, the Testking Defendants offer for
14 sale "training materials" designed to prepare certification candidates to successfully pass
15 Microsoft Certification Exams. *Id.* ¶ 10. The most prominent and well-known of the
16 Testking Defendants' websites is www.testking.com. The Testking Defendants further
17 operate an affiliates program, whereby websites owned and controlled by third parties are
18 able to receive a commission from the sale of Testking's tests when they successfully direct
19 customers to Testking's websites for purchases (the "Testking Affiliate Program" or
20 "TAP"). *See, e.g.*, <http://affiliate.testking.com/>.

21 Microsoft originally sued the Testking Defendants in the United States District
22 Court for the Western District of Washington in August 2006, seeking recovery for
23 violations of, among other things, the Copyright Act, 17 U.S.C. § 101, *et seq.*, as a result of
24 the Testking's unlawful copying and distribution of copyrighted material appearing on
25 Microsoft's Certification Exams, which had been misappropriated from unknown sources.
26



1 The Certification Exams are confidential, and securely filed.² Thoma Decl. ¶ 7. However,
 2 the Testking Defendants somehow misappropriated the exams from unknown sources and
 3 were distributing actual questions and answers as self-proclaimed “study guides.” *Id.* ¶¶
 4 11-19; Resnick Decl. ¶ 5.

5 The parties settled the case settled prior to trial, and, as part of the settlement, this
 6 Court entered an order granting Microsoft a permanent injunction enjoining the Testking
 7 Defendants, and others working for or associated with them, from infringing Microsoft’s
 8 copyrights and trademarks. The Permanent Injunction unambiguously enjoins the Testking
 9 Defendants from engaging in the unauthorized copying and distribution of Microsoft’s
 10 secure, copyrighted Certification Exam questions and answers, as well as in any conduct
 11 constituting infringement of Microsoft’s copyrights and trademarks. Specifically, the
 12 Testking Defendants, and others employed by or associated with them, are permanently
 13 enjoined and restrained from:

- 14 a. registering for or subscribing to any Microsoft Certification
- 15 Programs in the future;
- 16 b. copying, using, marketing, selling, distributing, publishing,
- 17 reproducing, disseminating, offering or otherwise transferring in any way any actual
- 18 Microsoft Certification Exam, or any portion thereof;
- 19 c. infringing any of Microsoft’s intellectual property rights to its
- 20 Certification Exams, including but not limited to, by directly or indirectly owning or
- 21 operating any Internet website at which infringing materials are sold or made
- 22 available or by knowingly aiding or abetting infringement by others of Microsoft’s
- 23 intellectual property rights to its Certification Exams;
- 24 d. infringing any of Microsoft’s Registered Trademarks, Servicemarks,
- 25 or Copyrights or knowingly aiding or abetting infringement by others of Microsoft’s
- 26 Registered Trademarks, Servicemarks, or Copyrights.

Permanent Injunction ¶ 1.

² Due to the high sensitivity of the Certification Exams, and accordingly secure and confidential treatment of those exams, Microsoft has not submitted copies of the exams with this motion. Microsoft will submit copies of such exams, and the Testking Defendants’ copied versions of those exams, for *in camera* review by the Court upon the Court’s request.

1 Since the effective date the Permanent Injunction, the Testking Defendants have
 2 continued to engage in the unauthorized copying and distribution of Microsoft's
 3 Certification Exam questions and answers. In September 2008, Microsoft obtained
 4 Testking's MB2-632 "practice exam" and conducted a side-by-side comparison of a
 5 sampling of 50 sets of questions and answers from Testking's product with the
 6 corresponding questions and answers from Microsoft's actual MB2-632 exam³. All 50
 7 were exact matches for both questions and answers. As set forth herein, the Testking
 8 Defendants have repeatedly violated the Permanent Injunction, including but not limited to
 9 the following documented infringements:

10 (1) In December 2009, Microsoft obtained four "practice exams" from the
 11 Testking Defendants' websites and conducted comparisons with the corresponding
 12 questions and answers contained in Microsoft's actual, copyrighted Certification Exams.
 13 Resnick Decl. ¶ 5. Microsoft found the following:

14 a. Testking's 70-622. Microsoft conducted a side-by-side comparison of a
 15 sampling of 68 sets of questions and answers from Testking's product with the
 16 corresponding questions and answers from Microsoft's actual, copyrighted 70-622
 17 exam. 66 of the 68 were substantially similar to the questions and answer choices
 18 from Microsoft's actual 70-622 exam. Of the remaining two sets of questions and
 19 answers, one had a substantially similar question with different answers, and one did
 20 not match. *Id.* ¶ 5(a)

21 b. Testking's 70-443. Microsoft conducted a side-by-side comparison of a
 22 sampling of 26 sets of questions and answers from Testking's product to the
 23 corresponding questions and answers from Microsoft's actual, copyrighted 70-443
 24 exam. Sixteen were exact matches for both questions and answers, seven had
 25 substantially similar questions and exact answers, one pair was an exact question
 26 with a substantially similar answer, and the remaining two were substantially similar
 questions and answers. *Id.* ¶ 5(b).

c. Testking's 70-431. Microsoft conducted a side-by-side comparison of a
 sampling of 26 sets of questions and answers from Testking's product with the
 corresponding questions and answers from Microsoft's actual, copyrighted 70-431
 exam. Eleven were substantially similar to both the questions and answers, four

³ Microsoft's MB2-632 Certification Exam was not yet copyrighted in September 2008. Microsoft's application for the copyright registration is currently pending.

1 were exact matches for both questions and answers, four had substantially similar
2 questions and exact answers, and seven did not match. *Id.* ¶ 5(c).

3 d. Testking's 70-620. Microsoft conducted a side-by-side comparison of a
4 sampling of 26 sets of questions and answers from Testking's product with the
5 corresponding questions and answers from Microsoft's actual, copyrighted 70-620
6 exam. Sixteen were substantially similar to the questions and answer choices from
7 Microsoft's actual 70-620 exam, and ten did not match. *Id.* ¶ 5(d).

8 (2) In March 2010, Microsoft obtained six "practice exams" from the Testking
9 Defendants' websites and conducted comparisons with the corresponding questions and
10 answers contained in Microsoft's actual, copyrighted Certification Exams. Thoma Decl. ¶¶
11 11-17. Microsoft found the following:

12 a. Testking's 70-290. Microsoft conducted a side-by-side comparison of a
13 sampling of eight sets of questions and answers from Testking's product with the
14 corresponding questions and answers from Microsoft's actual, copyrighted 70-290
15 exam. Each of the eight sets of questions and answers analyzed were substantially
16 similar to the questions and answer choices from Microsoft's actual 70-290 exam.
17 *Id.* ¶ 11.

18 b. Testking's 70-291. Microsoft conducted a side-by-side comparison of a
19 sample of ten sets of questions and answers from Testking's product with the
20 corresponding questions and answers from Microsoft's actual, copyrighted 70-291
21 exam. All ten sets of questions were substantially similar to the questions from
22 Microsoft's actual 70-291 exam, and eight answers were substantially similar to the
23 answer choices from Microsoft's actual 70-291 exam. The two remaining answers
24 were exact matches to the answers from Microsoft's actually 70-291 exam. *Id.* ¶ 12.

25 c. Testking's 70-294. Microsoft conducted a side-by-side comparison of a
26 sampling of five sets of questions and answers from Testking's product with the
corresponding questions and answers from Microsoft's actual, copyrighted 70-294
exam. Each of the five sets of questions and answers analyzed were substantially
similar to the questions and answer choices from Microsoft's actual 70-294 exam.
Id. ¶ 13.

d. Testking's 70-293. Microsoft conducted a side-by-side comparison of a
sampling of 20 sets of questions and answers from Testking's product with the
corresponding questions and answers from Microsoft's actual, copyrighted 70-293
exam. Each of the 20 sets of questions and answers analyzed were substantially
similar to the questions and answer choices from Microsoft's actual 70-293 exam.
Id. ¶ 14.

e. Testking's 70-270. Microsoft conducted a side-by-side comparison of a
sampling of 20 sets of questions and answers from Testking's product with the
corresponding questions and answers from Microsoft's actual, copyrighted 70-270
exam. Testking's product was comprised not only of substantially similar questions
and answer choices, but also many substantial similar questions and exact answer
choices. Specifically, of the 20 sets of questions and answers compared, all 20 of

the questions were substantially similar to Microsoft's exam, 17 of the answers were the exact answers from the Microsoft exam, and the remaining three answers were substantially similar to the Microsoft exam. *Id.* ¶ 15.

f. Testking's 70-236. Microsoft conducted a side-by-side comparison of a sampling of 20 sets of questions and answers from Testking's product with the corresponding questions and answers from Microsoft's actual, copyrighted 70-236 exam. Each of the 20 questions and answers analyzed were substantially similar to the questions and answer choices from Microsoft's actual 70-236 exam. *Id.* ¶ 16.

g. Testking's 70-431. Microsoft conducted a side-by-side comparison of a sampling of five sets of questions and answers from Testking's product with the corresponding questions and answers from Microsoft's actual, copyrighted 70-431 exam. Each of the five sets of questions and answers analyzed were substantially similar to the questions and answer choices from Microsoft's actual 70-431 exam. *Id.* ¶ 17.

(3) In April 2010, Microsoft obtained one "practice exam" from the Testking Defendants' websites and conducted comparisons with the corresponding questions and answers contained in Microsoft's actual, copyrighted Certification Exam. *Id.* ¶ 18.

Microsoft found the following:

a. Testking's 70-528. Microsoft conducted a side-by-side comparison of a sampling of five sets of questions and answers from Testking's product with the corresponding questions and answers from Microsoft's actual, copyrighted 70-528 exam. Each of the five sets of questions and answers analyzed were substantially similar to the questions and answer choices from Microsoft's actual 70-528 exam. *Id.*

(4) In May 2010, Microsoft obtained one "practice exam" from the Testking Defendants' websites and conducted comparisons with the corresponding questions and answers contained in Microsoft's actual, copyrighted Certification Exam. *Id.* ¶ 19.

Microsoft found the following:

a. Testking's 70-620. Microsoft conducted a side-by-side comparison of a sampling of nine sets of questions and answers from Testking's product with the corresponding questions and answers from Microsoft's actual, copyrighted 70-620 exam. Each of the nine sets of questions and answers analyzed were substantially similar to the questions and answer choices from Microsoft's actual 70-620 exam. *Id.*

III. ARGUMENT

A. Civil Contempt.

This Court has “inherent power to find a party in contempt” and may “determine whether to impose compulsory and compensatory sanctions against an individual or entity found to be in contempt.” *Mission Capital Works, Inc. v. SC Restaurants, Inc.*, No. C-07-1807-JLR, 2008 WL 5100313, at *4 (W.D. Wash. Dec. 3, 2008) (citing *United States v. Asay*, 614 F.2d 655, 659 (9th Cir. 1980)). The procedure for civil contempt is to set an order to show cause hearing to provide the contemnor an opportunity to respond to the allegations of contempt. *Int’l Union, UMWA v. Bagwell*, 512 U.S. 821, 831-34 (1994). The party seeking an order of civil contempt must show by clear and convincing evidence that the alleged contemnor violated the Court’s order. *F.T.C. v. Productive Mktg.*, 136 F. Supp. 2d 1096, 1107 (C.D. Cal. 2001) (cited in *Mission Capital Works*, 2008 WL 5100313, at *5 n.15). “Punishment for civil contempt is intended to be either coercive or compensatory.” *A.G. Design & Assocs. v. Trainman Lantern Co., Inc.*, No. 07-05158-RBL, 2008 WL 4691527, at *2 (citing *Productive Mktg.*, 136 F. Supp. 2d at 1107).

1. The Permanent Injunction Is a Valid Court Order.

The Permanent Injunction issued by this Court is a valid court order. As recited in the order, the Permanent Injunction was issued “[b]ased upon the Stipulation of the parties.” Permanent Injunction at 1. Importantly, the Copyright Act specifically authorizes the relief ordered by this Court. That statute grants the Court authority to issue “final injunctions on such terms as it may deem reasonable to prevent or restrain infringement of a copyright.” 17 U.S.C. § 502(a).

2. Defendants Had Knowledge of the Permanent Injunction.

The Testking Defendants had actual notice of the Permanent Injunction. The parties stipulated to the Court’s entry of the Permanent Injunction, and it was signed by the Testking Defendants’ attorneys. Additionally, the Permanent Injunction was served upon

the Testking Defendants through their attorneys, who received it by the CM/ECF system. An injunction is binding on those who receive notice of the order. *Hilao v. Estate of Marcos*, 103 F.3d 762, 766 n.6 (9th Cir. 1996).

3. Clear and Convincing Evidence Shows that the Testking Defendants Violated the Permanent Injunction.

As recounted in detail in the contemporaneously filed declarations and above, the Testking Defendants have disobeyed the terms of the Permanent Injunction by continuing to engage in the same wrongful conduct alleged in the original Complaint, and enjoined in the stipulated Permanent Injunction. To warrant civil contempt sanctions, disobedience of the court's order need not be willful; rather a court can find a defendant in civil contempt for failing to be reasonably diligent in attempting to comply with the court's order. *Mission Capital Works*, 2008 WL 5100313, at *4 (citing *Asay*, 614 F.2d at 660). In this case, the record before the Court shows that defendants have engaged in knowing and intentional fraud that demonstrates their *willful* violation of the Permanent Injunction.

As described above, the Permanent Injunction enjoins the Testking Defendants from:

- a. registering for or subscribing to any Microsoft Certification Programs in the future;
- b. copying, using, marketing, selling, distributing, publishing, reproducing, disseminating, offering or otherwise transferring in any way any actual Microsoft Certification Exam, or any portion thereof;
- c. infringing any of Microsoft's intellectual property rights to its Certification Exams, including but not limited to, by directly or indirectly owning or operating any Internet website at which infringing materials are sold or made available or by knowingly aiding or abetting infringement by others of Microsoft's intellectual property rights to its Certification Exams;
- d. infringing any of Microsoft's Registered Trademarks, Servicemarks, or Copyrights or knowingly aiding or abetting infringement by others of Microsoft's Registered Trademarks, Servicemarks, or Copyrights.

Permanent Injunction ¶ 1.

The Testking Defendants have openly violated these terms. Setting aside, the Testking Defendants' violation of the Copyright Act by infringing upon Microsoft's

1 copyrights in the Certification Exams, the Testking Defendants have violated Paragraph
 2 1(b) of the Permanent Injunction by “copying, using, marketing, selling, distributing,
 3 publishing, reproducing, disseminating, offering or otherwise transferring in any way any
 4 actual Microsoft Certification Exam, or any portion thereof.”

5 More importantly, the comparison analyses conducted by Microsoft show that the
 6 Testking Defendants are actively infringing Microsoft’s copyrighted Certification
 7 Examinations. *See* Resnick Decl. ¶ 5; Thoma Decl. ¶¶ 11- 21. This conduct violates
 8 Microsoft’s exclusive rights of reproduction and distribution under the Copyright Act. *See*
 9 17 U.S.C. § 106.

10 **4. Sanctions Should Be Awarded against the Testking Defendants.**

11 This Court has broad discretion in fashioning an appropriate remedy for defendants’
 12 violations of the Permanent Injunction. *Asay*, 614 F.2d at 660 (citing *United States v.*
 13 *United Mine Workers*, 330 U.S. 258, 304 (1947)). Available remedies include sanctions
 14 against the contemnor to compel obedience with the Court’s orders and remedial damages
 15 to compensate the plaintiff-victim for injuries resulting from the contemnor’s
 16 noncompliance. *United States v. Ayers*, 166 F.3d 991, 997 (9th Cir. 1999). The Court may
 17 award the injured party compensatory damages, including costs and attorney’s fees, based
 18 on proof of such damages by a preponderance of the evidence. *Clear One Commc’n, Inc. v.*
 19 *Chaing*, 670 F. Supp. 2d 1248, 1282 (D. Utah 2009). Calculating how much defendants
 20 have profited from their wrongful conduct depends on facts known to defendants that will
 21 have to be established through discovery. The Court’s broad authority includes ordering
 22 disgorgement of profits made from the infringing activity. *See Jerry’s Famous Deli, Inc. v.*
 23 *Papanicolau*, 283 F.3d 998, 1004 (9th Cir. 2004) (awarding disgorgement of profits as
 24 contempt sanction for trademark infringement); *see also* 17 U.S.C. § 504(b) (disgorgement
 25 remedy for copyright infringement). Further, Microsoft should be compensated for harm it
 26 has suffered to its goodwill and reputation as a result of defendants’ violations.



At this stage, Microsoft also seeks an immediate contempt sanction that will prevent further injury to Microsoft. Accordingly, Microsoft request the Court to issue an order requiring the Testking Defendants to remove all “practice exams” and all other study materials for Microsoft Certification Exams from Testking.com and all of the Tesking domain websites, and all the Testking affiliate websites. The Testking Defendants have repeatedly demonstrated that they cannot be trusted to comply with this Court’s existing Permanent Injunction, so this complete bar is a necessary and appropriate sanction, in addition to disgorgement of profits and Microsoft’s attorney’s fees and costs incurred in connection with enforcing the Permanent Injunction. *See Harcourt Brace Jovanovich Legal and Prof’l Publ’ns Inc. v. Multistate Legal Studies, Inc.*, 26 F.3d 948, 953 (9th Cir. 1994) (upholding award of attorney’s fees incurred in connection with civil contempt motion).

B. Request for Order to Show Cause

Microsoft has submitted clear and convincing evidence showing defendants’ violations of the Permanent Injunction. Pursuant to the Court’s inherent authority, Microsoft requests that defendants be ordered to show cause why they should not be held in contempt of court. In connection therewith, Microsoft requests that the Court enjoin any further violation of the Permanent Injunction, and order the Testking Defendants to remove all “practice exams” and all other study materials for Microsoft Certification Exams from Testking.com and all of the Tesking domain websites, and all the Testking affiliate websites. Microsoft further requests that the Court order expedited discovery on the Testking Defendants’ infringement so that Microsoft can undo the harm caused by the Testking Defendants and calculate the damages it has suffered.

IV. CONCLUSION

This Court permanently enjoined the Testking defendants from copying Microsoft’s Certification Exams. As the comparisons conducted by Microsoft make plain, defendants



1 have willfully and deliberately violated the Court's Permanent Injunction. The Testking
2 Defendants' conduct is egregious, has caused significant harm to Microsoft, and warrants a
3 forceful response by this Court. Pursuant to its inherent authority, this Court should issue
4 an order requiring defendants to show cause why they should not be held in contempt and
5 why the Court should not grant the other relief requested by Microsoft.

6
7 DATED: October 29, 2010.

8
9 **YARMUTH WILSDON CALFO PLLC**

10 By /s/ John H. Jamnback

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22
23
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26



CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing

to:

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Dated this 29th day of October, 2010 at Seattle, Washington.

/s/ Colette Saunders
Colette Saunders
Legal Assistant

425.44 kj291302

MOTION FOR ORDER TO SHOW CAUSE
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EXHIBIT A

The Honorable James L. Robart

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 LODGED RECEIVED

APR - 5 2007

AT SEATTLE
 CLERK U.S. DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON DEPUTY

06-CV-01116-ORD

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF WASHINGTON

MICROSOFT CORPORATION, a
 Washington Corporation,

Plaintiff,

v.

SHAHZAD SHAHNAWAZ, an individual;
 OVE LUNDBERG, an individual;
 CERTIFICATION TRENDZ, LTD., a
 foreign corporation, and JOHN DORS 4-20
 d/b/a/ "Testking,"

Defendants.

No. C06-1116JLR

STIPULATED PERMANENT
 INJUNCTION

STIPULATION

Plaintiff Microsoft Corporation ("Microsoft") and defendants Shahzad Shahnawaz,
 Ove Lundberg, Certification Trendz, Ltd., respectfully move for, and stipulate to, entry of the
 following Order.

DATED this 2nd day of April, 2007.

s/ David A. Bateman

David A. Bateman, WSBA # 14262
 Attorneys for Plaintiff
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s/ Michael G. Atkins

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STIPULATED PERMANENT
 INJUNCTION - 1

Case No. C06-1116JLR

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18 ORDER

19 Based on the foregoing Stipulation of the parties, it is hereby ORDERED as follows:

20 1. Pursuant to Civil Rule 65(d), Defendants Shahzad Shahnawaz, Ove Lundberg,
21 Certification Trendz, Ltd., (collectively referred to as "Defendants"), their agents, contractors,
22 employees, affiliated or related companies and entities, assignees, and successors-in-interest,
23 and those in active concert or participation with them, are permanently enjoined from
24 engaging in any of the following activities, and from assisting, aiding, or abetting any other
25 person or entity in engaging in or performing any of the following activities:

- 26 a. registering for or subscribing to any Microsoft Certification Programs
in the future;
- b. copying, using, marketing, selling, distributing, publishing,
reproducing, disseminating, offering or otherwise transferring in any way any actual
Microsoft Certification Exam, or any portion thereof;

STIPULATED PERMANENT
INJUNCTION - 2
Case No. C06-1116JLR
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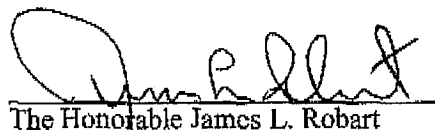
1 c. infringing any of Microsoft's intellectual property rights to its
2 Certification Exams, including but not limited to, by directly or indirectly owning or
3 operating any Internet website at which infringing materials are sold or made available
4 or by knowingly aiding or abetting infringement by others of Microsoft's intellectual
5 property rights to its Certification Exams;

6 d. infringing any of Microsoft's Registered Trademarks, Servicemarks, or
7 Copyrights or knowingly aiding or abetting infringement by others of Microsoft's
8 Registered Trademarks, Servicemarks, or Copyrights.

9 2. For a period of three years from entry of this Order, Defendants shall not
10 transfer the domain names listed on the attachment to this Order from their current registrar,
11 Enom, Inc.. Any and all domain name registrars, including but not limited to Enom, Inc., are
12 hereby directed to prevent transfer of those domain names to another domain name registrar
13 during this three year period.

14 3. This Court will retain jurisdiction for the purpose of enforcing this Permanent
15 Injunction.

16 DATED this 5th day of April, 2007.

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19 The Honorable James L. Robart

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STIPULATED PERMANENT
INJUNCTION - 3

Case No. C06-1116JLR

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CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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s/ David A. Bateman
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STIPULATED PERMANENT
INJUNCTION - 4
Case No. C06-1116JLR
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The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MICROSOFT CORPORATION, a
Washington corporation,

Plaintiff,

v.

SHAHZAD SHAHNAWAZ, an individual;
OVE LUNDBERG, an individual;
CERTIFICATION TRENDZ, LTD., a
foreign corporation, and JOHN DOES 4-20
d/b/a "Testking,"

Defendants.

No. C06-1116JLR

PRAECIPE TO ATTACH
DOCUMENT

[CLERK'S ACTION REQUIRED]

TO THE CLERK OF THE COURT:

Plaintiff Microsoft Corporation hereby requests the Clerk to please add the pages
submitted herewith as an attachment to the Stipulated Permanent Injunction (Docket No. 38)
that was filed on April 2, 2007.

DATED this 3rd day of April, 2007.

KIRKPATRICK & LOCKHART PRESTON GATES
ELLIS LLP

s/ David A. Bateman

David A. Bateman, WSDA # 14262
Attorneys for Plaintiff
Microsoft Corporation

PRAECIPE TO ATTACH DOCUMENT - 1

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PRAECIPE TO ATTACH DOCUMENT - 2

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CERTIFICATE OF SERVICE

I hereby certify that on April 3, 2007, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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PRAECIPE TO ATTACH DOCUMENT - 3

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